

ROYAL COURT

58,

3rd April, 1992

Before: The Deputy Bailiff, and
Jurats Orchard and Herbert

The Attorney General

- v -

Gary Mark Saven

1 Count of illegal entry and larceny

PLEA:

Guilty.

DETAILS OF OFFENCE:

Saven and an accomplice obtained a duplicate key to an electrical wholesaler. They took orders from acquaintances for cheap electrical goods then entered the premises one evening with a van and stole £11,203.69 of goods. Initially Saven tried to set up a false alibi. Very organised crime.

DETAILS OF MITIGATION:

After the false alibi had been broken, Saven admitted his part in the offence. He was in segregation for his own protection while in custody, as he was thought by other prisoners to be an informer.

PREVIOUS CONVICTIONS:

Mainly for motoring but two for petty dishonesty.

CONCLUSIONS:

15 months.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted. Segregation at prison not a ground for further mitigation.

**Miss S.C. Nicolle, Crown Advocate.
Advocate P.C. Sinel for the accused.**

JUDGMENT

DEPUTY BAILIFF: On the authorities, the proper tariff sentence for this crime is one of fifteen months' imprisonment, and that takes into account all the "ordinary" mitigation, if I may so describe it. And Mr. Sinel very properly concedes that.

But he puts before us an additional factor. It is the special circumstance of the fact that due to threats of violence and the rumour that he is a "grass", the defendant has reason to fear for his safety and has spent almost the whole of his time in custody in segregation.

Mr. Sinel conceded that the justification for this was not borne out by what we have heard. Indeed, it seems that some of the receivers had been arrested and charged before Saven was even arrested. Nevertheless, segregation has taken place as a fact.

Professor Thomas in "Principles of Sentencing" (2nd ed.) at p.215 deals with "Additional hardships in prison". And he says this:

"For some offenders the experience of being imprisoned may present problems not encountered by the majority of persons

sentenced to imprisonment. Certain groups of offenders may experience hostility from their fellow prisoners, either because they have previously held positions as police officers, or prison officers, or have given information or assistance to the police or prison authorities; or because the nature of their offences, typically sexual or violent offences against children, makes them particularly unpopular and exposed to assault. These factors have been allowed some weight in a small number of cases but their general effect is uncertain".

The learned author then gives two examples only where sentences were reduced on this ground but they were cases with very exceptional circumstances where the Court reduced the sentence *"as an act of clemency"*.

That the Court has given anxious consideration to this case is borne out by the fact that we have taken so long and Mr. Sinel was right to ask the Court to consider this aspect of the matter.

But the Court, on balance, has decided that this is not a case that calls for an act of clemency because of very exceptional circumstances. On all the facts it appears to the Court that Saven played an equal part with 'X' in the planning and execution of this crime. The conclusions are right and proper. Saven, you are sentenced to fifteen months' imprisonment.

Authorities

- Thomas: "Principles of Sentencing" pp. 138-144; 215.
- A G -v- Bleasdale (1984) 6 Cr. App. R.(S) 177.
- A G -v- Wilson (1989) 11 Cr. App. R.(S) 20.
- A G -v- McDonnell and Cassar (1990) 12 Cr. App. R.(S) 600.
- A G -v- McGurk (4th January, 1988) Jersey Unreported.
- A G -v- McGurk (4th January, 1988) Jersey Unreported.
- A G -v- Lynch & Barclay (24th May, 1991) Jersey Unreported.
- A G -v- Lynch (24th July, 1991) Jersey Unreported.
- A G -v- McDonough & Dring (25th October, 1991) Jersey
Unreported.
- A G -v- Coll & Gaughan (5th April, 1991) Jersey Unreported.
- A G -v- Coll (7th February, 1992) Jersey Unreported.